

Application for Exemption from WV Workers' Compensation Coverage

1124 Smith Street Charleston, WV 25301

Mail Completed Application To:

WV OFFICES OF THE INSURANCE COMMISSIONER Employer Coverage Division PO Box 11682 Charleston, WV 25339-1682

Telephone: 304-558-6279

For Insurance Commission Use Only				
Exemption ID #:				
Effective Date:				
Reviewed By:	Date:			

ALL QUESTIONS ON THIS APPLICATION MUST BE ANSWERED IN FULL. ADDITIONAL PAGES MAY BE ATTACHED IF A SPACE PROVIDED IS INADEQUATE. THE APPLICATION MUST BE NOTARIZED AND A \$25.00 APPLICATION FEE IS REQUIRED OR THE APPLICATION CANNOT BE PROCESSED. IF YOU HAVE ANY QUESTIONS PLEASE CALL 304-558-6279.

With limited exceptions, as set forth more specifically in W. Va. Code § 23-2-1 and W. Va. Code St. R. § 85-8-1, et. seq., workers' compensation coverage is **mandatory** for all employers who employ one or more employees in West Virginia. The Insurance Commissioner will review this application in light of all law in West Virginia relevant to workers' compensation exempt status, and make a decision based upon such law as applies to the information stated herein and any additional information requested. Therefore, it is strongly advised that before submitting an application for exemption, the applicant be familiar with the applicable law as referenced above, and only make application if the applicant or his or her business believes that he or she qualifies for one of the limited exemptions.

SECTION I: BUSINESS INFORMATION

1. State the Reason(s) for Filing an Exemption Application. This must be a reason or reasons supported by one of the specific exemptions as set forth in W. Va. Code § 23-2-1(b)(1) through (8), or stating otherwise that the employer is exempt from West Virginia workers' compensation laws because it does not fall under the purview of W. Va. Code § 23-2-1(a). Within this section, please account for all of the persons or entities that perform work or services in the State of West Virginia on the employer's behalf, but whom the applying employer does not consider to be an "employee" for the purposes of workers' compensation (i.e., the person(s)/entity(s)) is a subcontractor, independent contractor, etc.).

Sufficient documentation in support of the claimed exemption should be provided with this application. If the applicant provides coverage in another state, the applicant must attach proof of coverage from that state. Attach an explanation of why you are requesting an exemption. Please provide the number of your employees, or last date on which you or your business had employees.

2.	Legal Name of Business:				
	Trading As/Doing Business As:				
3.	Primary Business Address:				
	Not a Post Office Box	Street			
		City	County	State	Zip
		Name of Contact Person	Telephone #		Fax #
		Contact Person's Email Address		Co	ell #
4.	Mailing Address:				
		Street			
		City	County	State	Zip
5.	Primary WV Address:				
	Not a Post Office Box	Street			
		City	County	State	Zip

	SECTION I: BUSINESS INFORMATION, Continued					ESS IN							
6.	Federal ID #:]			
7.	WV Unemployment C	Compen	sation A	ccoun	t #:								
8.	WV State Tax ID #:					44b-0-		Desta	Di-t	antina Contiliante			
9.	Type of Organization Check all that apply	:			Sole Pr Partner Limited Domes Foreigr State A Municip Receive	oprieto ship Liabilit tic Corp Corpo gency pality	rship y Corpo oration		ss Registr	Lim Joir Joir Ass Cou Trus	nt Ventu nt Ventu ociation nty Age	tnership re, Corpo re, Partno n ency	
10.	10. Describe in detail the complete business operation and work process, including the primary type of work that is performed by your business and its workers. Please provide sufficient documentation with this application to support the representations in this section (e.g., any professional or industrial licenses, permits, etc.).												
11.	State where incorpor	ated:											
	Date incorporated:												
12.	2. If you are an out of state employer, how long do you anticipate working or having operations in West Virginia? a. First date owner, partners, officers, members began working in WV: b. Date employees with workers' compensation coverage in another state began working in WV:												
13.	Do you currently hav	e empl	oyees wh	no:									
	a. Work in, or within	the pa	st year, l	have w	orked i	n, the S	State of	West '	Virginia	? Yes] No		
	b. Are residents of t	the Stat	e of Wes	t Virgi	nia? [] Yes	□ I	No					
	c. Are covered by a w	vorkers'	compens	sation p	oolicy fo	r West	Virginia	Worke	rs' Com	pensation benef	its?] Yes [☐ No
	d. If a., b. or c. are "	yes," p	lease pro	ovide a	list of	all such	n emplo	yees o	on a sep	parate page.			
	e. Do you anticipate hiring any such employees in the future? If so, please provide an estimated date of hire. Yes Estimated date of hire: No					e.							
14.	4. List ALL licenses, permits & certificates issued by any State Agency for the purpose of doing business in WV: Provide a copy of any certification or license that is required by the state.					V:							
	Issuing Agenc	у			Issu	ed To			Type o	f License, Perm Certificate	nit,	License, Certific	
15.	Did Applicant Purcha				•		_	Yes	_	_	Leas	e	□ No

		SECTION I: B	USINESS INFORMATION, COntinued			
Е	ffec	tive Date of Purchase/Lease:				
N	ame	of Business Purchased/Leased:				
Α	ddre	ess of Purchased/Leased Business:				
			Street			
			City	County	State	Zip
			Contact Person's Telephone #			
N	ame	of Individual/Contact Person from Whon	n Business was Purchased/Leased:			
Α	ddre	ess of Individual/Contact Person from Wh	om Business was Purchased/Leased	1:		
5	Street		City	County	State	Zip
		OFOTION II. INDE	PENDENT CONTRACTOR INFORMA	TION		
		SECTION II: INDE	PENDENT CONTRACTOR INFORMA	TION		
		NG: The burden of proving independent a letter of exemption based on workers				
em	oloy	er's workers are independent contr	actors (i.e., no employees).	Any change	in or addit	tion to
		tractor/independent contractor status fol of the Insurance Commissioner immedia		ication must k	be supplied to	the WV
			•			
10.		our basis for claiming exempt status is swer the following questions. Please di				
	cor	ntractor. If your basis for claiming exem swer these questions, your application wi	mpt status is that you are an indep	endent contr	actor and you	fail to
	ans	swer these questions, your application wi	n be demed.			
	a.	Who owns and/or leases the equipment	used to perform your work?			
	b.	Who controls your work schedule?				
	D.	willo controls your work schedule?				
	c.	Does anyone supervise or direct the wo	rk you are performing?	□ No		
		If yes, please identify the supervisor and	,	_		
	d.	Do you have a written contract for the pe	erformance of work?	□ No		
		If yes, please provide a copy of the cont	ract.			
	e.	Do you contract to provide your service	s to multiple persons or companies,	or do you pro	ovide your serv	ices to
		just a single person or company?				
17.		our basis for claiming exempt status i vices or work in connection with your				
		estions.	·			
	a.	Who owns and/or leases the equipment	used by the workers to perform work	c?		
	b.	Who controls the workers' work schedu	le?			
		Dana amusina assessation as a Province	wheels would Very Very			
	C.	Does anyone supervise or direct the wo If yes, please identify the supervisor and				
		, .,,	,			

d. Do you have a written contract with the workers for the performance of work? Yes No If so, please provide a copy of the contract.

e. Do you have contracts with multiple workers or companies to perform the work described herein or with just a single person or company? ☐ Yes ☐ No 18. Do you employ or anticipate employing independent contractors? The "Addendum of Application for Exemption from WV Workers' Compensation Coverage for Individual Independent Contractors" must be completed and attached. Complete the following for each subcontractor/independent contractor. Attach additional pages if necessary. Name of Independent Contractor #1: Subcontractor's Workers' Compensation Policy #: Subcontractor's State/Federal Tax ID #: Subcontractor's Address: Street County Telephone No.: Description of Work Performed by Independent Contractor: Estimated Length of Contract: Name of Independent Contractor # 2: Subcontractor's Workers' Compensation Policy #: Subcontractor's State/Federal Tax ID #: Subcontractor's Address: Street City County State Zip Telephone No.: **Description of Work Performed by Independent Contractor: Estimated Length of Contract:**

NOTE: Pursuant to W. Va. Code §23-2-1d, on or after July 10, 2009, a subcontractor shall provide proof of continuing coverage to the prime contractor by providing a certificate showing current as well as renewal or replacement coverage during the term of the contract between the prime contractor and the subcontractor. The subcontractor shall provide notice to the prime contractor within two business days of cancellation or expiration of coverage.

SECTION III: OWNER, PARTNER, OFFICER, MEMBER IDENTIFICATION AND ELECTIONS OF COVERAGE

Pursuant to W. Va. Code § 23-2-1(g)(2), workers' compensation coverage is not required for certain sole proprietors, members and officers. For corporations and associations, only the following principal officers are exempt from having to be covered for workers' compensation regardless of whether they also perform the work of an employee: a president, a vice-president, a secretary and a treasurer.

19. List ALL owners, partners, officers, directors, and members. List all individuals who own 10% or more of the business entity. List any persons who have a working relationship with the applicant to provide authority, direction or control over the business operations. 'S' Corporations must list ALL individuals legally associated with the 'S' Corporation.

Provide the name, title or position, social security number and percent of ownership, if any, for all individuals listed. Indicate whether the individuals elect not to be covered by WV workers' compensation insurance and whether they work in a dual capacity. Dual capacity is defined as any one person who performs duties and has responsibilities typically associated with an officer, but also performs duties associated with a worker, manager or other employee who is not an officer.

Please note that the information provided in this section does not, by itself, entitle the employer to a letter of exemption. The information in this section only serves the purpose of showing that certain individuals serving as sole proprietors, partners and officers for the applying company are exempt from coverage. An employer is not entitled to a letter of exemption from West Virginia workers' compensation coverage unless it meets one of the specific exemptions as set forth in W. Va. Code § 23-2-1(b)(1) through (8), or otherwise proves that the employer is exempt from West Virginia workers' compensation laws because it does not fall under the purview of W. Va. Code § 23-2-1(a). For example, if an employer has several employees that meet the exemption under this section, but several that do not, the employer would not be entitled to an exemption letter – it would still need to show its entitlement to an overall exemption under the provisions of 23-2-1(a) or (b).

Name	Title / Position	Effective Date Title / Position Held	SSN	% Owned	Elect Coverage? (Yes / No)	Dual Capacity? (Yes / No)

SECTION IV: SIGNATURE AUTHORITY

20. This application must be signed and sworn to by the appropriate persons listed below.

Signatures of accountants or agents are not acceptable.

- a. If the applicant is a corporation or a limited corporation this application must be signed by the president or the vice-president and secretary of the corporation.
- b. If the applicant is a partnership, a limited partnership or limited liability company, this application must be signed by *all* general partners or members.
- c. If the applicant is a sole proprietorship this application must be signed by the sole owner.

I hereby swear or affirm that to the best of my knowledge and belief these statements and representations are true and accurate. I accept the provisions of the WV Workers' Compensation Act and the Rules promulgated thereunder, as amended. I am aware that I MUST timely notify the WV Offices of the Insurance Commissioner in writing, of any changes in my business operations, including but not limited to new employment of even one person; entering into contracts with subcontractors or independent contractors; changes in business type; location; ownership; covered/non-covered status of individual owners, partners, officers, and members; and the status of the business as described in this application. I further realize that all businesses are subject to an ongoing right by the WV Offices of the Insurance Commissioner to inspect and audit in order to maintain exempt status. Pursuant to this ongoing right to inspect and audit, I understand that the Insurance Commissioner may, at any time, request for inspection any documents deemed necessary to confirm that the exempt status is valid, including, but not limited to, tax documents, payroll documents, and financial documents. I understand that failure to comply with any request for documents may result in the immediate revocation of exempt status. I further understand that in accordance with W. Va. Code §61-3-24e(5), it is a felony to knowingly and willingly make false statements respecting any information required to be provided under the WV Workers' Compensation Code Chapter 23. Upon conviction the individual shall be confined in a penitentiary for up to three years, fined up to \$10,000, or both.

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SECTION IV: SIGNATURE AUTHORITY, Continued

Print Name of Signatory:			
State of			
County of	. To Wit:		
	,	Subscribed and sworn to before me this	
		day of	20 _
		Notary Public	
		My Commission Expires:	
Signature # 2:		Title:	
Print Name of Signatory:			
State of			
County of			
	,	Subscribed and sworn to before me this	
		day of	20
		Notary Public	
		My Commission Expires:	
Signature # 3:		Title:	
Print Name of Signatory:			
State of	,		
County of	, To Wit:	Subscribed and sworn to before me this	
		day of	20
		day of	20 _
		day of Notary Public	20 _

SECTION IV: SIGNATURE AUTHORITY, Continued

Signature # 4:	Title:
Print Name of Signatory:	
State of,	
County of, To Wit:	Subscribed and sworn to before me this
	day of 20
	Notary Public
	My Commission Expires:

REMEMBER TO INCLUDE ALL REQUESTED DOCUMENTATION.

Addendum to Application for Exemption from WV Workers' Compensation Coverage for Individual Independent Contractors

I,[state individual name]	_, understand that I am performing
[state individual name] Services for	as an independent contractor
services for[state company name]	
and not as an employee. Specifically, I a	m performing the following independent
contractor services for	;
contractor services for	npany name]
State complete heigh performed here.	
State services being performed here:	
I understand that if I am injured in pe	erforming the above services for
[state company name]	_, I will not be provided any workers'
compensation benefits by	, nor from the
West Virginia Uninsured Employer's F	und, and that if I wish to be provided
workers' compensation benefits in the	event of an injury while working for
	, I must obtain workers' compensation
[state company name]	·
insurance on my own.	

Additionally, I state that I have no employees. I understand that if I employ other individuals in the future, I will be responsible for providing them coverage for West Virginia Workers' Compensation benefits as required by law.

I further understand that as a requirement to being an Independent Contractor, I may be required to obtain certain licenses, certificates, etc. from other West Virginia State Agencies and otherwise comply with all West Virginia State Laws regarding my business.

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Finally, I understand that making any false statements or knowingly making misrepresentations to the WV Offices of the Insurance Commissioner pursuant to an application for a letter of exemption from workers' compensation and this Addendum can subject me to civil and criminal penalties, including being convicted of a felony.

Signature (Independent Contractor)	Date
Tax ID#	
Telephone #	
Signature (Primary Contractor)	 Date
State of,	
County of, To Wit:	
	Subscribed and sworn to before me this
	day of 20
	Notary Public
	My Commission Expires

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